



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No:
EA/00844/2021
EA/00851/2021
EA/00900/2021
EA/00902/2021

UI-2022-004614;
UI-2022-004616;
UI-2022-004634;
UI-2022-004636;

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 30 August 2023**

Before

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR
DEPUTY UPPER TRIBUNAL JUDGE FARRELLY**

Between

**MRS HUMAIRA IMTIAZ
HOOR UL AIN
NOOR UL AIN
ALI MUAVIA
(NO ANONYMITY DIRECTION MADE)**

Appellants

And

THE SECRETARY OF STATE FOR THE HOME OFFICE

Respondent

Representation

For the Appellant: Parkview Solicitors

For the Respondent: Mr D Clarke, Senior Presenting Officer.

Heard at Field House on 12th July 2023

DECISION AND REASONS

Introduction

1. The first named appellant is a national of Pakistan, born on 7 August 1987. The other appellants are her children.

2. She applied on the 18th of February 2020 for an EEA family permit under European Treaty provisions. She was sponsored by her brother, Mr Munir Ahmed. He is originally from Pakistan and now has Italian nationality. He lives in the United Kingdom with his family.
3. The application was considered under regulation 8 of the Immigration (European Economic Area) Regulations 2016. Under this, she claimed to be an extended family member of her brother's family. As such, she did not have an automatic right to join him but had to demonstrate she was dependent upon him .
4. The respondent was not satisfied she had demonstrated she was dependent and the application was refused on the 31st of July 2020 .
5. In support of her application a number of money transfer receipts from September 2019 to March 2020 were submitted showing transfers from the sponsor to her. Before this, the transfers were sporadic. She had not provided collection receipts but had provided her bank statement which showed transactions up to September 2019 only. The respondent took the view she had not provided sufficient evidence about her own financial situation.

Decision of the First-tier Tribunal

6. Her appeal was heard at Manchester on 20 May 2021 before First tier Judge Curtis. The sponsor attended in person at the hearing centre. An interpreter had been arranged to assist the sponsor. The judge and the presenting officer engaged remotely on the cloud video platform.
7. The judge found the sponsor to be an evasive witness, reluctant to disclose he had brothers in the United Kingdom or to answer whether they had ever supported the appellant. He claimed to have two jobs, totalling 131 hours per week. Given that there are only 168 hours in a week the judge concluded this was not plausible. The judge referred to three earlier unsuccessful applications and pointed out the proximity of the money transfers to the applications. It was noted that since September 2019 the sponsor had supported fifteen applications for family permits from five other extended family members. At that stage he was said to be earning only £650 per month and his rent was £600 per month, with a further claimed €150-€200 being transferred each month. Given his stated income the purported dependence was not considered genuine. The judge noted the sponsor was claiming Universal Credit .
8. The judge also found that the first appellant's husband was in regular employment in Pakistan.
9. The judge found it unlikely the sponsor was solely responsible for the provision of funds or that he would be in a financial position to sponsor the appellant and the other relatives he has sponsored whilst meeting his own needs. The judge found the sponsor failed to demonstrate he earned the amounts claimed. Furthermore, there was no clear evidence as to the first appellant's living expenses. The judge commented that her husband is in employment and her brother lives with them. The judge concluded by stating they were not satisfied

the appellants were dependent on the sponsor to meet their essential needs and took the view that it was more likely the first appellant's other brothers make contributions .

10. The judge saw little evidence that the house the appellant occupied was owned by the sponsor. The sponsor's account was that it was owned by his father and he had not lived in Pakistan since 2004. The judge was not satisfied the appellants were members of his household for the purposes of regulation 8.

Permission to appeal

11. Permission to appeal to the Upper Tribunal was granted by Tribunal Judge LK Gibbs, primarily on the basis that there might have been procedural unfairness. It was argued that the sponsor had not received the respondent's bundle until shortly before the appeal started and so did not have a chance to prepare properly. The application also took issue with the conclusion on household membership and continued to suggest financial dependency on the sponsor.
12. First-tier Tribunal Judge Curtis at paragraph 12 of the decision writes:

"12. The respondent had not posted the bundle until 14 May 2021 and the sponsor, Munir Ahmed, indicated that he had not received it. A copy of the bundle was printed off by the clerk for his reference. I went through the documents in the bundle to verify whether or not the sponsor was familiar with them. He confirmed that he had seen the relevant decision letter, the previous decision letters and the application form itself. He was familiar with the documentation that had been submitted by the appellants in support of the applications. The only other document in the bundle was the IAFT-6 and the initial directions from the tribunal. I was satisfied that it was fair and just to proceed with the hearing on the basis that the sponsor had previously seen the pertinent documentation within RB."

13. The appellant's representative argued there had been procedural unfairness because the sponsor was given the bundle at a late stage. There was no rule 24 response. It was pointed out that the sponsor did not have a command of English and could not follow the evidence that was presented. The respondent had failed to comply with the directions in providing the bundle late.
14. In reply, Mr D Clarke argued that the sponsor was aware of the issues arising in the appeal and that there was no unfairness in the circumstances. An interpreter had been provided. The refusal decision disputed the appellant's finances and whether the monies received were for their essential needs. In the previous application the sponsor's means had been in issue.
15. We reserved our decision.

Consideration.

16. It was our conclusion that the unfairness argument was misconceived. Paragraph 12 of the determination clearly demonstrates the judge was at pains to

ensure there was no unfairness because of the late receipt of the respondent's bundle. The sponsor had the benefit of an interpreter. There is no obligation on the part of the respondent to translate documents for him. The sponsor in turn had not complied with directions as he failed to provide a statement.

17. The documentation primarily related to the sponsor's own finances: he was, or should have been, aware of these. The same issues had been raised in a previous decision. At paragraph 23 the sponsor accepted there were no receipts relating to the appellant's household expenditure. There were no receipts for school fees.
18. At paragraph 25 the judge referred with the sponsor being an evasive witness who was reluctant to disclose he had brothers in the United Kingdom and to answer questions as to whether they had ever supported the first appellant. In the same paragraph there is reference to his claim of working 131 hours per week; a near impossibility. This evidence had nothing to do with documents in the respondent's bundle. There is no witness statement from the sponsor to suggest the judge's recording of the evidence was in any way inaccurate.
19. We see no merit in the same household point. The judge was entitled to make findings on this as at paragraph 32.
20. In conclusion, we find no merit in the points argued. No material error of law has been demonstrated. Consequently, the decision of First tier Judge Curtis dismissing the appeals shall stand.

Notice of Decision

The decision of First tier Judge Curtis dismissing the appeals shall stand.

Francis J Farrelly

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 14 August 2023